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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,317	05/15/2001	Dhiren K. Marjadi	AEI-177-A	1121

7590 01/03/2005

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EXAMINER

AUGUSTIN, EVENS J

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary**Application No.**

09/855,317

Applicant(s)

MARJADI ET AL.

Examiner

Evans Augustin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 8 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/15/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

Status of Claims

1. Claims 1-12 have been examined.

Claim Objections

2. Claim 8 and 11 are objected to because of the following informalities: During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). These claims are extremely broad as they are silent regarding to what will be done (“the ‘if not’ occurs”), hence giving the claims their broadest reasonable interpretation, a reasonable alternative is (“do nothing”, perform the next steps). Therefore, claim 8 has been examined as if the application service required units are not to be charged at the time of request. Claim 11 has been examined as if the required units of the requested digital content have not been locked. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christiano (U.S 5,671,412), in view of Conner et al. (U.S 6,816,882).

As per claims 1-12, Christiano discloses a license management system for software applications. The system can do the following:

- Provide licensed units to users (column 3, line 46)
- Provide license to components of a package (column 4, lines 15-17)
- Assign a minimum amount of units that a particular digital content requires to be used (column 17, lines 36-38)
- Assign check out units based on the number of units being used by requester (column 19, line 67, column 20, lines 1-2)
- A license is granted when the requested units **plus** the checked out units are less than or equal to the total licensed units (column 29, lines 4-9, column 20 lines 1-3). A license is denied if the logic if false (figure 9, item 174).
- Each software program requires a minimum amount of units, in order for that particular program to be checked out (column 29, lines 20-24). The requested units for a particular program have to be greater than or equal to the minimum amount of units for that particular application (column 19, lines 40-45)
- When the requested amounts of units are being used, the available total licensed units are reduced by the requested units (column 29, lines 35-38). Therefore, the units are charged against the total available units during execution of the requested software.

However, Christiano did not explicitly describe a system that uses servers from an Application Service Provider (ASP) to host applications for the customer. Conner et al. discloses

However, Christiano did not explicitly describe a system that uses servers from an Application Service Provider (ASP) to host applications for the customer. Conner et al. discloses a system and method for automatically negotiating license agreements and installing arbitrary user-specified applications on Application Service Providers. The user can contract with an ASP the hosting of applications and interact with those applications via a thin client (column 2, lines 64-66) for on-demand delivery of application component (column 7, line 1). Therefore, it would have been obvious for one skilled in the art of digital content distribution and delivery over an open network to provide the user with an option to execute requested digital content on an ASP's server and to provide pay per use licensing agreement, based on applications share among multiple enterprises with multiple users on a virtual host (column 10, lines 8-10). It would have been obvious to do because the ASP would enable the user to minimize the costs of applications by reducing the skill requirements for operation and maintenance of the business application (column 9, lines 34-37).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Wyman (US 5,204,897)
- <http://www.agilis-sw.com/ezlm/datasheet.htm>

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evens Augustin whose telephone number is 703-305-0267. The examiner can normally be reached on Monday thru Friday 8 to 5 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammel can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any response to this action should be mailed to:

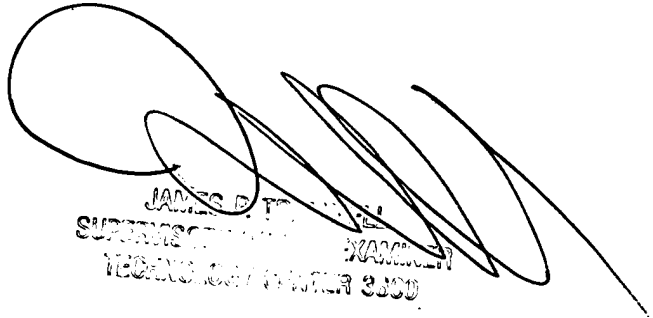
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(703) 305 – 5532 (for formal communications intended for entry and after-final communications), or (703) 746-5532 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Evens J. Augustin
October 28, 2004
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JAMES D. TRAMMEL
SUPERVISOR
TECHNOLOGY CENTER 3600

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